

REMARKS

The Applicants respectfully request reconsideration of this application in view of the above amendments and the following remarks.

35 U.S.C. §112 Rejection

Claims 83 and 92-100 are rejected under 35 U.S.C. §112, second paragraph.

Applicants respectfully submit that the claims have been amended to overcome the rejection.

35 U.S.C. §103(a) Rejection – Dutta, Schneider and Carolan

The Examiner has formerly rejected claims 80, 84, 86, 88, 91-92, 96, 100-102 and 107 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application No. 2002/0073204 issued to Dutta (hereinafter "Dutta") and U.S. Patent No. 6,687,753 issued to Schneider (hereinafter "Schneider") in view of U.S. Patent No. 6,965,569 issued to Carolan (hereinafter "Carolan").

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure. In re Vaack, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicants respectfully submit that: (1) Dutta, Schneider, and Carolan should not be combined; and (2) any combination of Dutta, Schneider, and Carolan, which

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combination does not even seem appropriate, still does not teach or suggest all of the limitations of the independent claims.

(1) Dutta, Schneider, and Carolan Should Not Be Combined In the Manner Suggested By The Examiner

Firstly, Dutta, Schneider, and Carolan do not contain any suggestion, either express or implied, that they be combined, or that they be combined in the manner suggested by the Examiner. Accordingly, Dutta, Schneider, and Carolan should not be combined.

Secondly, Dutta, Schneider, and Carolan are from non-analogous arts. Dutta pertains to peer-to-peer data networks (see e.g., the Title). In contrast, Schneider pertains to client server computer networks (see e.g., the abstract and the Field of the Invention). Schneider does not even mention the word "peer". Accordingly Dutta and Schneider are from non-analogous arts.

As discussed in the MPEP 2141.01(a), to rely on a reference under 35 U.S.C. 103, it must be analogous prior art. *"In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of the applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the invention was concerned."* In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also In re Deminski, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992).

Applicants respectfully submit that the problems addressed in the client-server computer networks of Schneider would not logically have commended themselves to an inventors attention when he/she was considering the problems addressed in the peer-to-peer data networks of Dutta. Applicants respectfully submit that the Examiner has failed

to provide sufficient justification why methods that are useful in a client-server environment would be useful in a peer-to-peer environment. In particular, it is well known that a server generally has much more extensive computational capabilities than a client, and approaches for providing three-dimensional graphics in a client-server environment as taught in Schneider would not necessarily have logically commended themselves to an inventor's attention when he/she was considering the problems addressed in the peer-to-peer data networks of Dutta. An inventor could not possibly be aware of every teaching in every art. In re Wood, 599 F.2d 1032, 202 USPQ 171, 174 (C.C.P.A. 1979). Accordingly, Dutta and Schneider should not be combined.

Carolan also does not appear to pertain to peer-to-peer networks. There is no mention of the word "peer" in Carolan. Furthermore, Carolan specifically mentions "*The present invention is a distributed conversion system that is centrally managed*". See e.g., the first line of the Summary of the Invention. Applicants respectfully submit that such a distributed conversion system with central management should not be combined with the peer-to-peer networks of Dutta. Accordingly, Dutta, Schneider, and Carolan should not be combined.

Thirdly, it seems likely that it would be necessary to make modifications that are not taught or suggested in the prior art in order to combine the references in the manner suggested by the Examiner. Accordingly, Dutta, Schneider, and Carolan should not be combined.

(2) In Addition, Any Combination of Dutta, Schneider, and Carolan Does Not Teach or Suggest All of the Limitations of the Independent Claims

Furthermore, even if Dutta, Schneider, and Carolan are combined, which does not even seem appropriate, the combination still does not teach or suggest all of the limitations of the independent claims.

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Claim 80 pertains to a method comprising:

“a first peer node receiving an inquiry for data from a second peer node, the inquiry including a user specified search string and specifying a format for the data;

generating a cost value based in part on conversion of the data to the specified format;

adding the cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node;

the first peer node converting the data into the specified format before transmitting the data to the second peer node;

transmitting the data to the second peer node in a transport specification specified by the second peer node”.

Dutta, Schneider, and Carolan do not teach or suggest these limitations.

Dutta pertains to peer-to-peer networks but does not teach or suggest a peer node receiving an inquiry that specifies a format for data and a transport specification with which the data is to be transmitted. Nor does Dutta teach or suggest that the peer node converts the data into the specified format. Nor does Dutta teach or suggest that the peer node generates a cost value based in part on the conversion of the data to the specified format. Nor does Dutta teach or suggest that the cost value is added to a packet that also includes a cost value generated by another peer node and then provides the packet to the second peer node that inquired about the data. In short, Dutta pertains to peer-to-peer networks but fails to disclose many of the claimed limitations presently recited in claim 80.

Schneider discusses that a **client** could specify a transmission protocol and a **server** could format information to be transmitted in response to the client request. However, these are **client** and **server** methodologies. There is no teaching or suggestion in the references themselves or in the knowledge generally available to one of ordinary level of skill in the art that these **client** and **server** methodologies be used in the peer-to-peer networks of Dutta. Schneider does not discuss peer-to-peer networks or even

mention the word "peer". Likewise, there is no teaching or suggestion in the references themselves or in the knowledge generally available to one of ordinary level of skill in the art that the approach of Carolan be used in the peer-to-peer networks of Dutta.

Still further, any combination of Dutta, Schneider, and Carolan does not teach or suggest **adding the cost value to a packet that also includes a cost value generated by another peer node** and then providing the packet to the second peer node.

For at least one or more of these reasons, claim 80 and its dependent claims are believed to be allowable over Dutta, Schneider, and Carolan.

Independent claims 92 and 101 and their respective dependent claims are believed to be allowable for one or more similar reasons.

35 U.S.C. §103(a) Rejection – Dutta, Schneider, Carolan and Ochiai

The Examiner has formerly rejected claims 81-82, 93-94 and 105 and 106 under 35 U.S.C. §103(a) as being unpatentable over Dutta, Schneider and Carolan in view of U.S. Patent No. 5,067,127 issued to Ochiai.

As these dependent claims depend from one of the independent claims which as discussed above are believed to be allowable, Applicants elect at this time not to address the rejection of these dependent claims.

35 U.S.C. §103(a) Rejection – Dutta, Schneider, Carolan and Agrawal

The Examiner has formerly rejected claims 83 and 95 under 35 U.S.C. §103(a) as being unpatentable over Dutta, Schneider and Carolan in view of U.S. Patent No. 6,072,784 issued to Agrawal.

As these dependent claims depend from one of the independent claims which as discussed above are believed to be allowable, Applicants elect at this time not to address the rejection of these dependent claims.

35 U.S.C. §103(a) Rejection – Dutta, Schneider, Carolan and Zhang

The Examiner has formerly rejected claim 85 under 35 U.S.C. §103(a) as being unpatentable over Dutta, Schneider and Carolan in view of U.S. Patent No. 6,891,854, issued to Zhang et al.

As these dependent claims depend from one of the independent claims which as discussed above are believed to be allowable, Applicants elect at this time not to address the rejection of these dependent claims.

35 U.S.C. §103(a) Rejection – Dutta, Schneider, Carolan and Sato

The Examiner has formerly rejected claims 87, 97 and 108 under 35 U.S.C. §103(a) as being unpatentable over Dutta, Schneider and Carolan in view of U.S. Patent No. 7,088,775 issued to Sato et al.

As these dependent claims depend from one of the independent claims which as discussed above are believed to be allowable, Applicants elect at this time not to address the rejection of these dependent claims.

35 U.S.C. §103(a) Rejection – Dutta, Schneider, Carolan and VanHeyningen

The Examiner has formerly rejected claims 89, 98 and 109 under 35 U.S.C. §103(a) as being unpatentable over Dutta, Schneider and Carolan in view of U.S. Patent Publication No. 2003/0023845 issued to VanHeyningen.

As these dependent claims depend from one of the independent claims which as discussed above are believed to be allowable, Applicants elect at this time not to address the rejection of these dependent claims.

35 U.S.C. §103(a) Rejection – Dutta, Schneider, Carolan and Goossen

The Examiner has formerly rejected claims 90 and 99 under 35 U.S.C. §103(a) as being unpatentable over Dutta, Schneider and Carolan in view of U.S. Patent Publication No. 2005/0108436 issued to Goossen et al.

As these dependent claims depend from one of the independent claims which as discussed above are believed to be allowable, Applicants elect at this time not to address the rejection of these dependent claims.

35 U.S.C. §103(a) Rejection – Dutta, Schneider, Carolan and Horn

The Examiner has formerly rejected claim 103 under 35 U.S.C. §103(a) as being unpatentable over Dutta, Schneider and Carolan in view of U.S. Patent Publication No. 2001/0022000 issued to Horn et al.

As these dependent claims depend from one of the independent claims which as discussed above are believed to be allowable, Applicants elect at this time not to address the rejection of these dependent claims.

35 U.S.C. §103(a) Rejection – Dutta, Schneider, Carolan and Neogi

The Examiner has formerly rejected claim 104 under 35 U.S.C. §103(a) as being unpatentable over Dutta, Schneider and Carolan in view of U.S. Patent No. 6,650,620 issued to Neogi et al.

As these dependent claims depend from one of the independent claims which as discussed above are believed to be allowable, Applicants elect at this time not to address the rejection of these dependent claims.

Conclusion

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance. Applicants respectfully request that the rejections be withdrawn and the claims be allowed at the earliest possible date.

Request For Telephone Interview

The Examiner is invited to call Brent E. Vecchia at (303) 740-1980 if there remains any issue with allowance of the case.

Request For An Extension Of Time

The Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17 for such an extension.

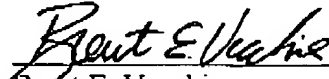
Charge Our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 2/28/07


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